

### Remarks/Arguments

Claims 21-40 are pending in this application, and are rejected in the final Office Action of September 24, 2009. Claims 21-22, 24-29, 32-36 and 38-40 are amended herein to more particularly point out and distinctly claim the subject matter Applicants regard as the invention.

#### Re: Claims 21-25, 28-32 and 35-38

Claims 21-25, 28-32 and 35-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0194599 by Mountain et al. (hereinafter, "Mountain") in view of U.S. Patent Publication No. 2004/0078817 by Horowitz (hereinafter, "Horowitz"), and further in view of U.S. Patent No. 6,396,531 issued to Gerszberg et al. (hereinafter, "Gerszberg"). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 21, as amended herein, recites:

"A method for operating a television apparatus, the method comprising steps of:

requesting, via said television apparatus, first program guide data;  
initiating, via said television apparatus, acquisition of said first program guide data in response to said request, wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data; and

enabling, via said television apparatus, display of a banner including information for a future program in response to one of said first program guide data and said second program guide data." (emphasis added)

As indicated above, amended independent claim 21 recites a method for operating a television apparatus in which the television apparatus requests first program guide data and initiates acquisition of the first program guide data in response to the request. According to the claimed invention, if a broadcaster provides second program guide data to the television apparatus without being requested by the television apparatus while the television apparatus is in the process of acquiring the first

program guide data, the television apparatus uses the second program guide data instead of the first program guide data. The television apparatus enables display of a banner including information for a future program in response to one of the first program guide data and the second program guide data. Independent claims 28 and 35 are amended herein to recite subject matter similar to independent claim 21. Support for the amendments to independent claims 21, 28 and 35 may be found in FIG. 7 of Applicants' specification (i.e., see caption "...If we are in the process of acquiring a guide when the broadcaster pushes a new one [i.e., guide] to us, we will acquire and use the data from the new guide"). Accordingly, no new matter is introduced by these amendments.

None of the cited references, whether taken individually or in combination, discloses or suggests each and every element of independent claims 21, 28 and 35. The primary reference, Mountain, discloses a television system that provides for the generation of a display indicating program information relating to a program available for viewing from a viewer selected subset of television channels (see, for example, the Abstract and paragraphs [0003]-[0004]). However, Mountain fails to disclose or suggest, *inter alia*, the claimed feature of "wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data" as recited by amended independent claim 21 (and similarly recited by amended independent claims 28 and 35).

Neither Horowitz nor Gerszberg is able to remedy the aforementioned deficiencies of Mountain. In particular, Horowitz discloses a method for recording programs broadcast on channels by requesting and receiving actual starting and ending times of the programs to ensure that the entire program is recorded (see, for example, the Abstract and paragraph [0001]). Gerzberg discloses a system architecture for bypassing a local exchange carrier in which information may be delivered to a user via an information push at user specified time intervals (see, for example, the Abstract and column 29, lines 35-45). However, like Mountain, neither Horowitz nor Gerzberg,

discloses or suggests, *inter alia*, the claimed feature of “wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data” as recited by amended independent claim 21 (and similarly recited by amended independent claims 28 and 35).

Accordingly, for at least the foregoing reasons, Applicants submit that claims 21-25, 28-31 and 35-37 are patentable over the proposed combination of Mountain, Horowitz and Gerszberg, and withdrawal of the rejection is respectfully requested.

**Re: Claims 26-27, 33-34 and 39-40**

Claims 26-27, 33-34 and 39-40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mountain in view of Horowitz and Gerszberg, and further in view of U.S. Patent No. 6,763,522 issued to Kondo et al. (hereinafter, “Kondo”). Applicant respectfully traverses this rejection for at least the following reasons.

Kondo is unable to remedy the deficiencies of Mountain, Horowitz and Gerszberg pointed out above in connection with claims 21-25, 28-32 and 35-38. In particular, Kondo discloses a digital television electronic program guide system and method for providing updated program and system information. However, like Mountain, Horowitz and Gerszberg, Kondo also fails to teach or suggest, *inter alia*, the claimed feature of “wherein if a broadcaster provides second program guide data to said television apparatus without being requested by said television apparatus while said television apparatus is acquiring said first program guide data, said television apparatus uses said second program guide data instead of said first program guide data” as recited by amended independent claim 21 (and similarly recited by amended independent claims 28 and 35).

Accordingly, for at least the foregoing reasons, Applicants submit that claims 26-27, 33-34 and 39-40 are patentable over the proposed combination of Mountain,

Horowitz, Gerszberg and Kondo, and withdrawal of the rejection is respectfully requested.

**Conclusion**

In view of the foregoing remarks/arguments and accompanying amendments, the Applicants believe this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled. Please charge the fee for the RCE to Deposit Account 07-0832.

Respectfully submitted,

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